

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
GREENVILLE DIVISION

UNITED STATES OF AMERICA,) April 29, 2019
)
 Plaintiff,) Greenville, SC
)
)
 vs.)
)
DONALD NATHANIEL THOMAS, JR.,) Case no(s) : 8:19cr181-DCC-2
)
 Defendant.)

TRANSCRIPT OF DETENTION/BOND HEARING
BEFORE THE HONORABLE JUDGE JACQUELYN D. AUSTIN
UNITED STATES MAGISTRATE JUDGE, presiding

A P P E A R A N C E S:

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P R O C E E D I N G S

(Proceedings began at 11:16 a.m.)

THE COURT: Yes, ma'am.

MS. WASHINGTON: Your Honor, the next case is United States of America versus Donald Thomas, Junior. It's docket Number 8:19-181. Mr. Thomas is present in the courtroom, and he's represented by Rauch Wise.

THE COURT: Okay.

MS. WASHINGTON: Judge, on February 26, Mr. Thomas and others were arrested on an indictment issued out of this district. At that time, the defendant appeared before Your Honor. The government moved for detention. At the time, Mr. Thomas waived detention. It's my understanding that Mr. Thomas filed a motion for bond on April 23. The government maintains its position that Mr. Thomas should be detained pending trial.

I've spoken with Mr. Wise this morning. It's the government's intention to proffer the government's evidence as to detention. I don't think Mr. Wise has an objection. The case agent is here, Special Agent Randy Smith, and he will be made available for cross-examination, if need be.

THE COURT: Okay. Mr. Wise, are -- do you have any objection to the government proffering their evidence this morning?

MR. WISE: That's -- that's fine, Your Honor.

1 **THE COURT:** Okay. And you're prepared to go forward
2 this morning, as well?

3 **MR. WISE:** Yes, ma'am.

4 **THE COURT:** Okay. I'll have the government go ahead
5 and put their evidence on the record ---

6 **MS. WASHINGTON:** Your Honor ---

7 **THE COURT:** --- supporting detention.

8 **MS. WASHINGTON:** --- the government understands that
9 Your Honor has presided over a number of hearings in this case
10 and has viewed several search warrant applications, so I'll try
11 to be as brief as possible. But just for background, on
12 February 19, Mr. Thomas and 11 others were charged in a
13 multi-count indictment as it relates to -- specifically as to
14 detention and the presumption that applies in this particular
15 case. Mister -- a grand jury found probable cause that
16 Mr. Thomas and others committed the offense of conspiracy with
17 intent -- conspiracy to possession with intent heroin, cocaine,
18 and fentanyl. The grand jury also found probable cause as to
19 Count 2 which charges conspiracy to import the same drugs. The
20 grand jury also found probable cause as to Count 6 of the
21 indictment which charges a violation of Title 18, that is,
22 Title 18, United States Code, Section 924(c), possession of a
23 firearm in connection -- or in furtherance of a drug
24 trafficking crime.

25 Your Honor, this investigation began as early as 2016

1 locally by Greenwood Police Department and Greenwood County
2 Sheriff's Office. DEA and FBI became involved later. The
3 investigation was initiated based on the increased number of
4 opioid -- particularly fentanyl -- related overdoses and
5 deaths. As a matter of fact, since 2017, the coroner in
6 Greenwood County confirmed there were 23 fentanyl-related
7 overdoses in Greenwood County, since 2017.

8 Turns out that in September, on September 26, 2018,
9 DEA office in Las Cruces, New Mexico, contacted DEA in this
10 district and reported that an individual, a Jamaal Latimer, had
11 contacted a source of theirs, a cooperating source, whom he
12 believed resided in Mexico, looking to purchase a significant
13 quantity of heroin and cocaine, 10 kilograms of heroin and 10
14 kilograms of cocaine. DEA in New Mexico forwarded that
15 information, or contacted the office here, inquired about the
16 legit -- legitimacy of the ability, first of all, to buy that
17 amount of drugs, the identity of the -- of Latimer and the
18 others who were looking for that amount of drugs.

19 A decision was made to follow up on the inquiry. DEA
20 in New Mexico contacted Mr. Latimer and scheduled a visit to
21 meet with him in El Paso to hammer out the details.
22 Surprisingly, Mr. Latimer actually boarded a flight from
23 Atlanta on October 2, 2018, along with another individual whom
24 the government does not believe was intricately involved in the
25 conspiracy, to meet with these agents. At the time,

1 Mr. Latimer, of course, believed that he was meeting with a
2 source out of Mexico; did not know that he was actually talking
3 to and going to be meeting with undercover DEA agents.

4 On October 2, 2018, Mr. Latimer and another
5 individual drove to Atlanta from the Upstate of South Carolina
6 to board a flight from Atlanta to El Paso. According to bank
7 records, Mr. Thomas's bank records, Mr. Thomas -- Mr. Thomas's
8 credit card was used to pay for both tickets. Each ticket was
9 about \$950.

10 Once Mr. Latimer made it to El Paso and met with the
11 agents, the agents arranged a recorded meeting with
12 Mr. Latimer. During that recorded meeting, Mr. Latimer told the
13 agents that he was in business, the drug business, that is,
14 with individuals in South Carolina. He described those
15 individuals as being in the nightclub and car sales business.
16 Mr. Thomas is actually in -- or purports to be a used car
17 salesman. He owns his own business in the Greenwood -- in
18 Greenwood County.

19 Mr. Latimer also told the agents -- unbeknownst to
20 Mr. Latimer at the time he was being recorded and was actually
21 meeting with law enforcement -- that the organization's
22 previous supplier had proven not to be reliable and they were
23 looking for another source. Mr. Latimer, during that recorded
24 meeting, contacted Mr. Thomas via FaceTime, and talked to
25 Mr. Thomas about how the meeting was going and that he had made

1 it to El Paso.

2 Mr. Latimer also told the agents during the recorded
3 meeting that his organization, including Mr. Thomas,
4 manufactured heroin pills out of the drugs that they received.
5 In other words, they would receive heroin in powder form and
6 would convert it to pill form using a pill press. Mr. Latimer
7 said that the car business -- the car lot -- the used car and
8 the nightclub business, which was, at that time, purportedly
9 owned and ran by Detric McGowan, who is the lead defendant in
10 this case, was used -- were used -- both of those businesses
11 were used as a front for their drug trafficking business.
12 Mr. Latimer specified that he wanted 10 kilograms of cocaine;
13 and the 10 kilograms of heroin, he specified that it be China
14 White heroin, meaning that he wanted it to be cut with
15 fentanyl.

16 Mr. Latimer, during that meeting, described
17 Mr. Thomas as his brother. Don't know if there's a familial
18 relationship, but that's how he, at that time at least,
19 described Mr. Latimer. Mr. Latimer told the agents that he was
20 -- that their -- the way they operated was that they used the
21 club to sell some of the drugs and that they -- he was
22 specifically requesting fentanyl and wanted to know how much
23 cut or additive could be added to the fentanyl so the China
24 White heroin to be supplied by the El Paso organization, or the
25 organization he believed was -- he was meeting with in El Paso,

1 how much cut or additive could be used in addition to -- how
2 much cut or additive could be added to the powder substance
3 that he was to be receiving from this organization. Cut is an
4 additive usually -- generally used by drug traffickers to
5 increase the volume, thereby increasing the traffic margin for
6 folks who sell drugs. Mr. Latimer stayed in El Paso for maybe
7 two days tops.

8 Afterwards, he came back to South Carolina but
9 continued to be in touch with the agents -- the undercover
10 agents in El Paso, and eventually arranged for the transaction,
11 that is, for the 10 kilos of coke and the 10 kilos of China
12 White heroin to be delivered to Greenville on October 23, 2018.
13 During -- between the time Mr. Latimer arrived back in
14 Greenville and October 23, 2018, there were numerous calls
15 between Mr. Latimer and the individuals -- and the undercover
16 agents in El Paso concerning the transaction, discussing the
17 details, indicating his willingness and ability to carry out
18 the transaction. That being -- specifically, law enforcement
19 was concerned that this was not going to happen because he was
20 ordering a significant amount of drugs, number one; and number
21 two, the amount of money that he was to be -- that was to be
22 paid was about \$760,000.

23 Lo and behold, on October 23, when the agents arrived
24 supposedly to deliver marijuana and cocaine, Mr. Latimer also
25 met with them. Mr. Latimer -- before the transaction was

1 scheduled to occur on October 23 at an agreed upon location in
2 Spartanburg County, the agents observed Mr. Latimer,
3 Mr. Thomas, Mr. Cunningham, at a residence in Mauldin, South
4 Carolina. They observed those individuals both entering the
5 residence and leaving the residences -- residence -- actually,
6 it was an apartment townhome -- with the duffel bags. It turned
7 out later, during the traffic stop, that those duffel bags
8 contained -- combined, contained over a million dollars.

9 During the traffic stop, while Mr. Latimer and
10 Mr. Cunningham were en route to Spartanburg County to meet with
11 the undercover agents, the officers seized also from Mr. Thomas
12 in a separate vehicle, a van driven by Mr. Thomas,
13 approximately \$248,000, along with a loaded shotgun. Mr. Thomas
14 was the only individual, at that time, inside the van. Minutes
15 earlier, the officer had seized about \$758,000 from a vehicle
16 being driven by Mr. Cunningham. Mr. Cunningham was following
17 Mr. Latimer to the meet location in Spartanburg County.

18 As the officers pulled Mr. Thomas's vehicle over on
19 Interstate 85 and engaged him in the conversation, Mr. Thomas
20 initially told the officers that the money was to be used to
21 buy inventory for his used car business. Minutes later,
22 Mr. Thomas's then girlfriend, Shequita Holloway, who was also
23 charged in the indictment, arrived and explained to agents that
24 the money was also going to be used to buy a house. They seemed
25 to have conflicting stories about the purpose of the money. And

1 at that time, the agents already knew what the purpose was.
2 Nevertheless, Mr. Thomas and Ms. Shequita Holloway continued to
3 lie to the agents about the purpose and source of the cash.
4 That conversation with the law enforcement on the side of
5 Interstate 85, on October 23, is the basis of a charge in the
6 indictment that is in violation of 18 U.S.C. 1001, lying to
7 federal agents.

8 Mr. Thomas, apparently prepared to continue in the
9 lie, on December 28, contacted law enforcement through a lawyer
10 and asserted that -- to make a claim for the money that was
11 seized on October 23. That claim didn't, of course, go
12 anywhere, but apparently Mr. Thomas was prepared to persist in
13 the lie that the money was legitimately earned and was not to
14 be used to facilitate a drug transaction.

15 Judge, Mr. Latimer was -- all of these individuals
16 were eventually arrested in February of this year. Mr. Latimer
17 agreed, pursuant to a proffer, to be interviewed by law
18 enforcement. He was in March, on March 8 and March 14.
19 Mr. Latimer told the agents during those sessions and that the
20 drug -- the drug business that he was in was -- involved
21 Mr. Thomas, Mr. McGowan and others. Mr. Latimer told agents
22 that beginning around December 2017, at Mr. Thomas's direction,
23 that he cut four kilograms of heroin and repackaged it, which
24 yielded, once cutting it -- unpackaging it, cutting it with
25 whatever additive he decided to use that particular day,

1 resulted in seven kilograms of heroin. The reason he did that
2 -- and he did it at Mr. Thomas's direction, but the reason he
3 did that was to increase the supply for Mr. McGowan who was, at
4 the time, using the heroin to manufacture fentanyl pills, which
5 was known to all involved.

6 Mr. Latimer told the agents that that lasted for at
7 least up until August 2018 when they were -- when they started
8 to run out and decided to approach law enforcement or
9 individuals who later turned out to be law enforcement in El
10 Paso. Mr. Latimer told agents that he broke down heroin
11 supplied by Mr. Thomas from some source, out-of-state source,
12 at least four different times. So if he received four kilograms
13 of heroin at least four different times, the four kilograms on
14 at least four different times were converted to seven
15 kilograms. That amounts to about 28 kilograms of heroin from
16 December 2017 until mid-2018.

17 Additionally, Judge, Mr. Latimer told the agents that
18 between the time of the seizure on October 23, 2018 and
19 January 2019, he supplied Mr. McGowan with four kilograms of
20 heroin; purposely did not let Mr. McGowan know that the source
21 of the four kilograms of heroin was Donald Thomas. Unbeknownst
22 to Mr. Latimer at that time, when he -- in March -- when I say
23 at that time, in March when he was telling the agents about the
24 historical trafficking -- drug trafficking he did with
25 Mr. Thomas, Mr. Latimer was not aware that he had been captured

1 on a wiretap in -- beginning in December through
2 mid-February 2019.

3 Once Mr. Latimer told agents that he supplied four
4 kilograms of heroin to Mr. McGowan, sourced by Mr. Thomas, the
5 agents went back and reviewed some of the phone calls
6 intercepted over the wiretaps, that -- one beginning in the end
7 of December 2018 and the other February 2019 -- and discovered
8 multiple calls during which Mr. Latimer and Mr. McGowan and
9 Mr. Latimer and others discussed the transaction that he
10 conducted with Mr. McGowan with heroin sourced from Mr. Thomas.
11 Consistent with what folks involved in this business generally
12 do, according to Mr. Latimer, the purpose for not telling
13 Mr. McGowan the source of the dope: number one, apparently,
14 after the October 23 seizure, there had been a falling out
15 amongst the members of the group; secondly, Mr. Latimer is, of
16 course, willing to accept any new customers and had he told
17 Mr. McGowan that the four kilograms were supplied by
18 Mr. Thomas, Mr. Latimer would no longer be useful. He couldn't
19 make any money. According to Mr. Latimer, that four kilos sold
20 for about -- he charged Mr. McGowan about \$198,000 for the
21 four.

22 I mentioned a wiretap. The wiretap on Mr. Latimer's
23 phone ran for a very short time, primarily because during the
24 wiretap on Mr. Latimer's phone -- which was the very first one
25 -- Mr. Latimer learned that an individual in North Carolina had

1 been arrested with dope that had been directly provided to that
2 individual, Deondre Miles, by Mr. Latimer. It turns out that
3 the 900 grams of fentanyl pills that Mr. Latimer supplied to
4 Mr. Miles in Charlotte on December 18, 2018 were supplied by
5 Mr. McGowan. When Mr. McGowan learned of Mr. Miles's arrest,
6 Mr. McGowan informed Mr. Latimer, and that caused Mr. Latimer
7 to drop his phone.

8 Prior to dropping his phone though, the agent
9 intercepted calls between Mr. McGowan and Mr. Latimer during
10 which the two discussed this individual, Mr. Miles. Mr. Latimer
11 told Mr. Miles -- again, unbeknownst to him that he was being
12 recorded -- that Mr. Miles was Thomas's customer, another
13 customer that he'd apparently tried to steal from Mr. Thomas;
14 told Mr. McGowan that he had only dealt with him twice. Prior
15 to his dealings with Mr. -- according to Latimer, prior to his
16 dealings with Mr. Miles in November 2018 and December 2018,
17 Mr. Miles was supplied by Mr. Thomas.

18 Mr. Latimer knew Mr. Miles because Mr. Thomas
19 directed Mr. Latimer to deliver cocaine to Mr. Miles in North
20 Carolina multiple times. Not only does Mr. Miles say -- does
21 Mr. Latimer say that Mr. Thomas supplied Mr. Miles, but when
22 Mr. Miles was arrested by law enforcement in North Carolina, he
23 identified Mr. Latimer as "TJ's boy." According to Mr. Latimer,
24 he made multiple trips to North Carolina at Mr. Thomas's
25 direction to deliver coke. He made at least two trips a month,

1 one to deliver the coke -- each time, at least two kilograms --
2 and another trip to pick up the money, all at Mr. Thomas's
3 direction. According to Mr. Latimer, that began in -- early in
4 2017 and he made no more than 10 trips to North Carolina for
5 Mr. Thomas, to deliver cocaine to Mr. Miles.

6 In addition, Judge, in addition to the 28 kilograms
7 that Mr. Latimer admits to pressing at Mr. Thomas's direction
8 for sale to Mr. McGowan, in addition to the cocaine that
9 Mr. Latimer admits and Mr. Miles confirms was supplied by
10 Mr. Thomas through -- by Mr. Latimer to him in North Carolina,
11 the organization was also responsible for manufacturing and
12 distributing heroin pills. In January -- on January 28th of
13 this month -- of this year, the agents intercepted calls
14 between Mr. McGowan and an individual in North Carolina during
15 which the two discussed a transaction that was to occur in
16 Columbia.

17 That transaction indeed did occur. Law enforcement
18 set up surveillance and watched it occur. After the
19 transaction, Mr. Lopez, Danny Lopez, out of Fayetteville, North
20 Carolina was arrested; when the officers found out about a
21 kilogram and a half of heroin pills.

22 On February 26, Judge, Mr. Thomas and the others were
23 arrested. At the time Mr. Thomas was arrested, he was found in
24 possession with about \$47,000. That's in addition to the
25 \$250,000, or approximately \$250,000, that was taken directly

1 from him on October 23 and the \$760,000 of which he pulled
2 money to purchase the 10 kilograms of cocaine and heroin. The
3 government has reviewed Mr. Thomas's tax returns for the
4 relevant years. For 2016 or 2017, Mr. Thomas reported an income
5 of about \$35,000 combined, which corroborates Mr. Latimer's
6 statements to law enforcement in El Paso when he said that the
7 car lot business and the nightclub business were used as fronts
8 for drug trafficking.

9 In addition, Judge, law enforcement seized, from
10 Mr. McGowan's residence, an additional \$500,000 and, from stash
11 houses used by Mister -- known to be used by Mr. McGowan and
12 Mr. Longshore -- another individual charged in Counts 1 and 2
13 of the indictment, along with Latimer and Thomas --
14 approximately 15 kilograms of heroin. Some of which was cut
15 with not fentanyl, but tramadol, which is an opioid painkiller
16 that mimics the effects of heroin. The officers also located a
17 detectable amount of fentanyl.

18 Your Honor, in addition to the presumption, the
19 government relies on the Court's consideration of the evidence,
20 the strength of the evidence in the -- against this defendant
21 that the government has. I briefly ran through, hit the high
22 points, or at least I tried to. And the government believes
23 that it is likely that, if tried, Mr. Thomas would be convicted
24 as charged.

25 The nature of the offense, Your Honor, is another

1 factor the Court is to consider. The offense here, Judge, is
2 particularly serious because what we have here are people, like
3 Mr. Thomas, supplying powder cocaine cut with various
4 substances known to be used to manufacturer fentanyl pills by
5 individuals with no pharmacological knowledge in a uncontrolled
6 environment. There's no way to determine the dosage of each
7 individual pills.

8 There were at least 15 -- about 15,000 pills of --
9 heroin pills seized during the January 28 transaction. There
10 were at least 10,000 pills seized from Mr. Miles in
11 December 2018, in Charlotte, North Carolina. The agents seized
12 multiple kilograms of pressed pills during the February 26
13 arrest and -- execution of search and arrest warrants.
14 Certainly, while all drug offenses have the capacity to be
15 dangerous, the reasons or the purposes and the methods used by
16 this organization make the offenses charged in Count 1 and 2
17 particularly serious.

18 As to Mr. Thomas, Judge, based solely on the drug
19 amounts involved, Mr. Thomas is likely -- while under the
20 statute, he's 10 to life on Count -- as to Count 1 and Count 2,
21 on Count 6, he's 5 to life for possession of a firearm in
22 furtherance of a drug offense under the statute, under the
23 guidelines, he's likely 360 to life. He's at least a base
24 offense level 36, just based solely on the amount of drugs
25 involved. He's likely to be attributed an enhancement for

1 leader organizer because it's the government's evidence that he
2 was. He's also likely to receive an enhancement depending on
3 how things shake out for possession of a firearm.

4 Judge, if -- the government realizes that Mr. Thomas
5 is a lifelong resident of Greenwood County. He's most recently
6 lived in Greenville County. To the extent that he is not
7 otherwise a flight risk, anyone facing that amount of time
8 certainly would have an incentive to flee.

9 In addition, Judge, the government believes that he's
10 continually going to be a danger to the community unless he's
11 locked up. Mr. Thomas's -- the best prediction of future
12 behavior is past behavior. After Mr. Thomas was interdicted by
13 law enforcement on October 23 -- 23, 2018, what'd he do? He
14 continued to deal drugs -- well, first of all, he lied to law
15 enforcement. Whether or not he knew that Mr. Latimer was
16 dealing with law enforcement in El Paso -- which they obviously
17 did not -- Mr. Thomas and the others knew that law enforcement
18 in Greenville County seized over \$1 million from the group.
19 That didn't deter them. Mr. Thomas continued to deal drugs, and
20 that's evidenced by Mr. Latimer's statements, and not only
21 Mr. Latimer's statement, Judge, the wiretaps confirm that there
22 was at least one other transaction that Mr. Latimer,
23 Mr. McGowan and Mr. Thomas participated in after October 23. So
24 he continued to lie. He was prepared to continue to lie to law
25 enforcement by filing a petition to return the funds that were

1 seized on October 23.

2 And secondly, Judge, Mr. Thomas appears to have no
3 legitimate employment. As stated earlier, 2016 and 2017, he
4 reported a combined income of about \$35,000. He's not relying
5 on the car lot business to support himself. There's only one
6 other way to earn money if you're Mr. Thomas, and that is
7 continue dealing drugs. If he is released, the government
8 believes that that's exactly what he'll continue to do. Judge,
9 the Fourth Circuit has found that continued drug distribution
10 is evidence of danger to the community. The government relies
11 on those three instances to support its position.

12 Judge, that's the government's presentation. I do --
13 as I said earlier, Special Agent Randy Smith, is present and is
14 available to answer any questions that Mr. Wise might have as
15 to the issue of detention.

16 **THE COURT:** Okay. Thank you very much.

17 Mr. Wise?

18 **MR. WISE:** I'd like to ask Agent Smith a few
19 questions, not in any great length.

20 **THE COURT:** We'll have Agent come forward and be
21 sworn.

22 **THE CLERK:** Please state your full name for the
23 record, sir.

24 **MS. WASHINGTON:** Randy Smith.

25 **AGENT RANDY SMITH**

1 having first been duly sworn, testifies as follows:

2 **THE WITNESS:** I do.

3 **THE CLERK:** You may be seated.

4 **DIRECT EXAMINATION**

5 **BY MR. WISE:**

6 **Q** Mr. Smith, one of the key things y'all were looking for in
7 this case was the pill press?

8 **A** Was that one of the key things we were --

9 **Q** I mean, that was an important item you wanted to recover.

10 **A** It's an item that would've been nice to recover, yes.

11 **Q** Yeah. And that was turned in, I believe, by the lawyer for
12 Mr. McGowan?

13 **A** There was a pill press that was turned in. Where --
14 there's absolutely no way to confirm that was the actual pill
15 press that they were using.

16 **Q** I understand that. I understand that. But a pill press was
17 turned in?

18 **A** Yes, sir.

19 **Q** And you had some indication through your surveillance that
20 the pill press was located on a piece of property on -- in the
21 Mountville, South Carolina, area.

22 **A** Originally, yes. And it was moved.

23 **Q** And did your surveillance ever have Mr. Thomas at that
24 house in the Mountville, South Carolina, area?

25 **A** No.

1 Q Now, the original deal was to -- not the original deal,
2 but one of the things that precipitated this, was when
3 Mr. Latimer contacted a DEA agent in New Mexico?

4 A Yes, sir.

5 Q All right. And it was Mr. Latimer that negotiated the
6 price?

7 A Mr. Latimer flew to El Paso ---

8 Q Uh-huh.

9 A --- and while meeting with the two undercover agents, he
10 actually FaceTimed Mr. Thomas.

11 Q Uh-huh.

12 A So the prices were negotiated between Mr. Thomas Latimer
13 and the two undercover DEA agents in El Paso.

14 Q And do you have a recording of that FaceTime? Or is it
15 just that FaceTime was done?

16 A What we have with that is the telephone records that
17 indicate that call did occur between Mr. Thomas and Mr. Latimer
18 at the time that was in question. We also have the undercover
19 agents who identified Mr. Thomas as being the person that was
20 FaceTimed during the negotiations.

21 Q Okay. All right. You don't have any information that
22 Mr. Thomas actually operated any press or anything like that?

23 A No.

24 Q Okay. Thank you.

25 THE COURT: Thank you. Anything further from the

1 government?

2 **MS. WASHINGTON:** No, Your Honor.

3 **THE COURT:** Okay. Thank you.

4 **THE WITNESS:** Thank you.

5 **THE COURT:** Okay. Mr. Wise, I've already heard from
6 the government on the elements of detention they feel have been
7 met in this case, and I'll hear from you.

8 **MR. WISE:** All right. Your Honor, there is one count
9 in the indictment that Ms. Washington didn't mention that we do
10 really have some serious dispute with, about Mr. Thomas
11 traveling in interstate commerce, but we'll -- I mean, we can
12 deal with that later. I don't -- he says he doesn't recall
13 traveling in this -- connection with this conspiracy.

14 First of all, I would like to say this: Mr. Thomas
15 does not have his head in the clouds in this case. He
16 understands clearly the significance of the case, the
17 allegations against him, and what the government generally has
18 against him. Nothing that was said today was a great surprise,
19 maybe a little bit here and there. But the general guts of the
20 conspiracy, none of that was a surprise. He has signed a
21 proffer agreement with the government.

22 I do take exception to one thing the government has
23 said in this case about Mr. Thomas. I've met with him a good
24 bit -- well, let me back up. First of all, I take exception
25 that Mr. Thomas lied to the government on December 28 when we

1 wrote a letter to the government about the money they seized.
2 Because the letter clearly states to the government, "Tell us
3 the basis for keeping it." Obviously, they answered that
4 question now. But he did not assert in that letter that this
5 was all legitimately earned. But anyway, that's, you know,
6 neither here nor there, because that money is gone and he has
7 waived any right to it.

8 He does, in fact, have a legitimate business. I do
9 not think the car business is a front for the drug business. I
10 think the car business is actually a very, very legitimate
11 business, totally independent of any alleged drug dealing he's
12 been involved in. I'll point out to the Court that in 2016, he
13 was employed with -- I believe with VELUX?

14 **THE DEFENDANT:** Yes.

15 **MR. WISE:** -- yes, VELUX, in the first half of the
16 year. He actually was working second shift at VELUX. He started
17 getting the idea of opening a car lot -- a car business. He
18 actually would go to a car dealer -- a body shop in the Ninety
19 Six area, learn how to paint cars for about three or four
20 months, before he opened up the car lot. He would do that in
21 the morning; go second shift to VELUX.

22 His basic business plan in this operation was to take
23 damaged cars -- he has some experience with bodywork and that's
24 why he went to learn to paint -- fix them up and then resell
25 them. And he would make his profit from not only the car but,

1 you know, he would then get paid back for all the labor he
2 spent doing it.

3 He also owned his own -- came -- learned how and
4 developed on his own, a financing plan for customers where for
5 the year -- according to the tax returns I have, for the year
6 2017, there were some 18 automobiles that people were paying on
7 by the month for him. So it's not like, you know, he's just out
8 there pretending to be doing business. He was actually,
9 seriously doing business at the car lot.

10 For the year 2017, which was is the first full year
11 he operated the car lot, his income was about \$27,000, after
12 expenses. And he anticipates that 2018 would be substantially
13 above that, but obviously has not filed the 2018 tax returns,
14 having been arrested in February of this year.

15 He is a lifelong resident of Greenwood County. He
16 has, for all practical purposes, no -- I think he got arrested
17 on some stuff when he was 18 years of age. But I think even a
18 lot of that was dismissed. So really, he has no criminal
19 record, certainly no prior drug record at all.

20 So he has five children that he supports. And he
21 proudly tells me that he is helping support his five children
22 and none of them have a court order requiring him to do it.
23 He's doing it on his own, voluntarily. His 16-year-old son
24 lives with him, to his credit.

25 The tax returns I've seen tell me -- and I think the

1 government has the same ones. I showed them to them this
2 morning -- confirmed that it shows that the car business is a
3 legit business -- a legitimate business. I actually had to go
4 to Spartanburg County jail with a power of attorney that
5 allowed somebody to take over helping run the business while
6 he's incarcerated. I've never had to do that in a case in my
7 life. The car lot that he owns is technically not owned by him,
8 it is being -- he bought it from the owner with the option to
9 purchase it. So it's -- you know, financed by the owner. So he
10 does have that legitimate business.

11 In discussing this matter with him, he tells me that
12 he has no need -- to run his business -- to go out of Greenwood
13 County. His house is located on Hitching Post Road, and the
14 business is literally within a quarter-mile of that location.
15 He says that if he needs to go buy a car out of the county, he
16 can get somebody to go do that. He would have no need to leave
17 Greenwood County.

18 I've had some serious talks with him and I've had
19 some serious talks with his mother, who is here -- stand up
20 please. She's here with many of his friends. As she told me, I
21 raised him better than this. And I believed her.

22 He quit school in the 12th grade. Finally got his
23 GED. Why he quit? I don't know, because he has some good
24 intelligence. From my discussions with him, I just could not
25 see him remotely getting back involved in any drug transaction

1 whatsoever. He has authorized me to tell you that if you
2 release him on bond and he flunks a drug test for any illegal
3 drug, he'll just go turn himself in and let him be revoked
4 because he -- I don't see a substance abuse problem in him,
5 which is kind of contradictory in some sense with what he's
6 accused of, but that's what the facts are.

7 I think if you allow him to get out on bond and do an
8 ankle monitor on him, restrict him to Greenwood County, he
9 would be able to get this business going -- I think he
10 understands he's eventually going to jail. That's not a -- he's
11 not delusional about that -- but in able to get it going and
12 have some people to be able to operate it and carry it on.

13 As I said, the business tax returns I've seen say it
14 is truly a very legitimate business. And I assume somebody
15 that's involved in drugs -- there's no drug money, as I see,
16 funneled through the business. Because otherwise, he would have
17 the income of 100,000 dollars a year from this used car
18 business as kind of a money-laundering scheme, but I don't see
19 that at all in this case.

20 I do think he understands his predicament. He
21 understands the situation he's in. I just -- from my
22 conversations with him, I think I can honestly tell the Court
23 that I think the chances of his getting back into anything near
24 this is virtually nonexistent. And if he were a flight risk,
25 frankly, Your Honor, back in October 28 when he kind of -- or

1 23rd when he kind of figured out this gig may very well be up,
2 he didn't flee, he didn't run, he didn't go anywhere, he stayed
3 right where he was until they arrested him in February. So I
4 think the flight risk is very low.

5 He, certainly, you know, was not as active in
6 traveling around as much as Mr. Latimer was and delivering
7 drugs. And the nature -- the exact nature of his involvement
8 we'll probably have to get into in some detail, but I think he
9 is not a flight risk. I don't think he's going to be a danger
10 to the community at all. And certainly, with an ankle monitor,
11 you can restrict his movement to Greenwood County and that
12 would be more than sufficient for him to do what he needs to do
13 to, you know, support his family and get the business going to
14 where he would be able to have, you know, some hope of it
15 continuing after he goes to jail.

16 **THE COURT:** Thank you.

17 **MS. WASHINGTON:** Judge, just briefly, I believe
18 Your Honor knows that this defendant doesn't have to leave
19 Greenwood County to conduct his drug business. He didn't. He
20 used Mr. Latimer to do so. He is the record owner operator of
21 E Z Rides in Greenwood County. I would just would point out,
22 Judge, Mr. Wise asked some questions about the traveling
23 interstate commerce. It is the government's evidence that this
24 defendant used his business credit card issued by Wells Fargo
25 to fund the trip to El Paso by Mr. Latimer and Mr. Latimer's

1 friend.

2 Mr. Thomas -- the truth of the matter is Mr. Thomas
3 was a lifelong resident of Greenwood County throughout this
4 conspiracy. The government does not believe the defendant has
5 provided or produced any evidence to rebut the presumption
6 against -- against bail in this case and that he should be
7 detained pending trial.

8 **THE COURT:** Anything further, Mr. Wise?

9 **MR. WISE:** Excuse me?

10 **THE COURT:** Anything further?

11 **MR. WISE:** Nothing further.

12 **THE COURT:** Okay. Anything from pretrial?

13 **PROBATION AGENT:** No, Your Honor.

14 **THE COURT:** Okay.

15 **MR. WISE:** Excuse me.

16 **THE COURT:** Yes.

17 **MR. WISE:** I think Mr. Thomas would like to make a
18 brief statement.

19 **THE COURT:** Okay. Just make sure you let your lawyer
20 knows what you're going to say first.

21 **MR. WISE:** We discussed it.

22 **THE COURT:** Okay.

23 **MR. WISE:** Before today.

24 **THE DEFENDANT:** Yeah, I just want to say I'm not in
25 denial of what's going on. And I didn't have -- much as what

1 was said -- a lot of stuff that been said, I didn't have a lot
2 to do with a lot of stuff that they said, but I'm not in denial
3 of my -- what I had going on in it.

4 **THE COURT:** Right.

5 **THE DEFENDANT:** But I just wanted say I was sorry.

6 (Pause.)

7 Let me get right. (Pause.)

8 I don't even think can I get right.

9 **FIRST SPEAKER FROM AUDIENCE:** Can I say something?

10 **THE DEFENDANT:** What --

11 **FIRST SPEAKER FROM AUDIENCE:** I'm his sister.

12 **MR. WISE:** Excuse me?

13 **FIRST SPEAKER FROM AUDIENCE:** I'm his sister. Can I
14 say something?

15 **MR. WISE:** Let me ask.

16 **THE DEFENDANT:** I just -- my daughter is about to
17 graduate. I've got somebody else running my business. Like he
18 said, I know I'm going to have to do some time. I just want to
19 get the house arrest to tell my kids to their face, you know,
20 to let them know what went on with me, because I don't want to
21 have to tell them through no phone.

22 I ain't never had no passport. I ain't never flew on
23 a plane.

24 But -- and I know I done -- I know I done caused
25 trouble in my family life and I wanted to let them know, you

1 know, be able to go home and let them know I know what I did,
2 this what's about to happen, and be able to -- be able to do my
3 time because I've never been in no trouble before. I haven't --

4 **THE COURT:** Which is -- which is very unusual for
5 somebody in your position to be involved in something like this
6 and not have any prior history in this. And that's what --
7 that's what my -- that's what's causing me dilemma here
8 today ---

9 **THE DEFENDANT:** Yeah.

10 **THE COURT:** --- because the fact that you didn't
11 have a background doing this, but yet what you were involved in
12 was extremely dangerous.

13 **THE DEFENDANT:** Yeah. Yeah.

14 **MR. WISE:** And Your Honor, as I say, it's a big
15 disappointment to his mother.

16 **THE DEFENDANT:** Yeah. And if she -- if she really
17 knew really what was going on, she'll know that I didn't --

18 **MR. WISE:** We'll go to that later.

19 **THE DEFENDANT:** -- you know.

20 **MR. WISE:** That's all.

21 **THE DEFENDANT:** But at the same time, Your Honor,
22 that's what I'm giving my all for, just to be able -- you can
23 restrict me to the house -- to home. And if I ever fail a drug
24 test, you can lock me back up. If I do ever violate in any type
25 of one, you can lock me right back up. But my family, they

1 solely, like, depend on me. And I really want to be able to,
2 you know, talk to them and let them know what's going on. And I
3 promise I won't -- I won't cause no problems.

4 **MR. WISE:** Thank you.

5 **THE DEFENDANT:** You know, I'm sorry about that.

6 **MR. WISE:** But he does have people here. If you are
7 here for Donald Thomas, would you just stand please.

8 (The audience complies.)

9 **MR. WISE:** He does have community support.

10 **THE COURT:** Uh-huh.

11 **MR. WISE:** Not for his activities, but for him as a
12 human being.

13 **SECOND SPEAKER FROM AUDIENCE:** And we love him and
14 we're very proud of him.

15 **THIRD SPEAKER FROM AUDIENCE:** We love you.

16 **SECOND SPEAKER FROM AUDIENCE:** We're very proud of
17 you, baby.

18 **FOURTH SPEAKER FROM AUDIENCE:** Yes.

19 **SECOND SPEAKER FROM AUDIENCE:** You'd never
20 disappoint me.

21 **FIRST SPEAKER FROM AUDIENCE:** When he left --

22 **THE COURT:** Yeah. If you're going to say anything,
23 we need to put you under oath to put any testimony on the
24 record. Of course, I'm going to let his mom speak. Because
25 mamas are -- mamas are special. So...

1 **SECOND SPEAKER FROM AUDIENCE:** Like I said, I'm very
2 proud of you, baby. You would never disappoint me. You're the
3 best son that anybody could ask for. I love you. We all love
4 you. You always mean something to us. You always -- you helped
5 so many people, and they tell me every day. They tell me how
6 you support them when they was sick. They tell me when they are
7 sick, you went and did things for them, which you didn't have
8 to. So I'm very proud of you.

9 **THE DEFENDANT:** Yes, ma'am.

10 **SECOND SPEAKER FROM AUDIENCE:** And we all make
11 mistakes. Nobody's perfect.

12 **THE DEFENDANT:** Oh, man.

13 **MR. WISE:** And I agree with Your Honor's comment
14 that to be involved in something like this, with not even a
15 simple possession of cocaine charge, it --

16 **THE COURT:** Yeah.

17 **MR. WISE:** -- and, you know, his mother has been to
18 see me several times and we've talked about it. It's just --
19 it's just a big inconsistency.

20 **THE COURT:** Yeah.

21 **MS. WASHINGTON:** Judge, obviously, I have to add. I
22 don't disagree with anything the family has said ---

23 **THE COURT:** Right.

24 **MS. WASHINGTON:** --- but this conduct occurred over
25 a period of time. This was not one instance or -- cannot be

1 considered aberrant behavior on this defendant's part. I don't
2 doubt that he may be a good person, but what -- the
3 government's interested in providing just punishment and
4 addressing the conduct.

5 **THE COURT:** Right. Anything further from pretrial?

6 **PROBATION AGENT:** No, Your Honor.

7 **THE COURT:** Okay. What I'm going to do today is: I'm
8 going to deny the government's motion for detention, but I am
9 going to set bond at \$100,000 secured, standard conditions,
10 with house arrest and location monitoring, which will be GPS
11 monitoring. If he's able to make that bond, then we'll
12 reconvene to make sure that residence is confirmed.

13 Mr. Thomas, I hope you don't prove me wrong here. Do
14 you under -- if you could look at me while I'm talking to you.
15 I hope you do not prove me wrong. I believe you when you say
16 that you will not go back out and do this again or get back
17 involved in this. If you do, we won't even have a hearing. If I
18 hear anything from probation or the government that you've gone
19 back out and gotten back involved in this -- this activity -- I
20 hope that you are telling your mother the truth ---

21 **THE DEFENDANT:** Yeah, I am.

22 **THE COURT:** --- that you will not do this again.

23 **THE DEFENDANT:** I am. Thank you.

24 **MS. WASHINGTON:** Your Honor, I just want to put the
25 Court and the defendant on notice that the government's going

1 to inquire as to the source of any property or funds used to
2 secure any bond that's executed in this case. The government
3 put other defendants on notice that any property that's
4 outstanding and any attempt to dissipate or transfer or hide
5 such property is going to be considered obstruction of justice,
6 and that applies to Mr. Thomas, too.

7 **MR. WISE:** On that, I would add, too, Your Honor, is
8 that if we're going to reconvene, formally do it, I'm going to
9 be out of town Wednesday through the rest of this week. So it
10 would be --

11 **THE COURT:** That's fine.

12 **MR. WISE:** -- it would have to be some time next
13 week.

14 **THE COURT:** That's fine. I just want probation ---

15 **MR. WISE:** Right.

16 **THE COURT:** --- to be able to confirm an address and
17 make sure that location monitoring can be set up.

18 **MR. WISE:** Okay.

19 **THE COURT:** So if you're not here, it's okay with
20 me, as long as it's okay with --

21 **MR. WISE:** Okay. You had talked about reconvening
22 though, I gathered, and come back before you.

23 **THE COURT:** Right. Right. I've set conditions today,
24 however.

25 **MR. WISE:** All right. Okay.

1 **THE COURT:** But I just need probation to be able to
2 confirm wherever he's going to live, so that monitoring can be
3 set up.

4 **MR. WISE:** Okay.

5 **THE COURT:** Just make sure you go over conditions of
6 bond so that he understands what ---

7 **MR. WISE:** Please do.

8 **THE COURT:** --- violations are.

9 **MR. WISE:** Please do. We won't have a dispute on it.

10 **MS. WASHINGTON:** Judge, it would also be helpful if
11 Mr. Wise can document the source of the property or funds that
12 you intend to be used to secure any bond.

13 **THE COURT:** Just so we don't have any issues.

14 **MR. WISE:** We won't have any issues.

15 **THE COURT:** Mr. Wise, do you understand what the
16 government's saying? You understand what the government's
17 position is?

18 **MR. WISE:** I do. I do. There shouldn't be an issue
19 on that.

20 **THE COURT:** Okay. Anything further?

21 **MS. WASHINGTON:** Nothing from the government.

22 **MR. WISE:** You're going to go over the conditions of
23 the bond?

24 **THE COURT:** Well, I want you to go over the
25 conditions of bond ---

1 **MR. WISE:** Okay. Okay.

2 **THE COURT:** --- with him. Just make sure he
3 understands what they are.

4 **MR. WISE:** I will.

5 **THE COURT:** I'm not sure if there is any order in
6 this case that co-defendants not communicate with each other.

7 **MR. WISE:** There really isn't, and that can create
8 one little problem. A co-defendant, who's way down on the list,
9 has been helping him in his business even before this started.
10 And she lives in Simpsonville and drives down occasionally, so
11 it's not like they're going to be in the same house. So that
12 may be the only rub. The rest of the defendants, no problem
13 whatsoever.

14 **MS. WASHINGTON:** Your Honor, it's also my
15 information that Demetris Goode, formally an employee of
16 E Z Rides continues operate -- or helps operate Mr. Thomas's
17 business.

18 **MR. WISE:** Uh-huh.

19 **MS. WASHINGTON:** Judge, the defendant is facing --
20 is waiting sentencing before Judge Cain. He's released on bond.
21 His sentencing was scheduled last week and was continued for a
22 short time. The government would ask the Court to make a
23 condition of Mr. Thomas's bond that he also have no contact
24 with Mr. Goode and others similarly situated, not just
25 co-defendants in this case.

1 **THE COURT:** Is that going to be an issue?

2 **MR. WISE:** That's no problem.

3 **THE COURT:** Mr. Thomas, is that going to be an
4 issue?

5 **MR. WISE:** No, ma'am.

6 **MS. WASHINGTON:** No contact direct or indirect.
7 Sorry.

8 **THE COURT:** Okay.

9 **MR. WISE:** We'll just -- that'll just make it
10 cleaner.

11 **THE COURT:** Okay. So as a condition -- an additional
12 condition of your bond would be that you have no contact
13 directly or indirectly with any other co-defendants in this
14 case.

15 **MR. WISE:** Yes, ma'am.

16 **THE DEFENDANT:** Yes, ma'am.

17 **THE COURT:** Okay. Anything further?

18 **MS. WASHINGTON:** Not at this time, Judge.

19 **THE COURT:** Okay. Thank you very much.

20 **MR. WISE:** Thank you.

21 (Court is adjourned at 12:04 p.m.)
22
23
24
25

I certify that the foregoing is a correct transcript from
the record of proceedings in the above-entitled matter.

/s/ Teresa B. Johnson

May 7, 2019

Teresa B. Johnson, CVR-M-CM, RVR, RVR-M

Date